THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.3406, 3412 and 3511 OF 2005

COMMON ORDER:

These three writ petitions are filed by Dr.Monica Nagpal assailing three similar orders of the Joint Registrar-I, Ranga Reddy District directing the petitioner to pay the deficit stamp duty for registration of certificate of sale and take the delivery of the documents. As the background of the three cases is similar, it is necessary to dispose of by a common order.

The fourth respondent herein initiated action under Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter called, the Securitisation Act) against one Smt.Jasanta, who was borrower of loan from the fourth respondent. The properties of the borrower/debtor was brought to sale and a public auction was conducted. The petitioner became the highest bidder and the fourth respondent issued a certificate of sale on 24.01.2005. The petitioner paid stamp duty at five per cent of the sale price under Article 16 of Schedule I-A of Indian Stamp Act, 1899 (for short, the Stamp Act) and presented to the Joint Registrar. The Joint Registrar referred the same to the District Registrar under Section 47-A of the Stamp Act as amended A.P.Act No.22 of 1974 and the District Registrar, by Memo, dated 19.02.2005, directed the Joint Registrar to treat the certificate of sale executed by Chief Manager of State Bank of India under Securitisation Act as sale deed and levy stamp duty @ 12 per cent. Pursuant thereto, the impugned proceedings were issued.

The learned counsel for the petitioner contends that the certificate of sale does not fall under Section 47-A of Schedule I-A of the Stamp Act and that the same falls under Article 16 of Schedule I-A of Stamp Act and therefore collection of stamp levy at 12 per cent is illegal and arbitrary. **Per contra**, the learned Assistant Government Pleader for Revenue (General) after getting instructions in the matter submits that even before the stamp duty was determined by the District Registrar, the petitioner herself approached the Joint Registrar and paid the deficit stamp duty of seven per cent, that the sale deeds were registered and released to the petitioner. He has also produced the Xerox copy of the letter of the petitioner, dated 27.09.2005, addressed to the Sub-Registrar-I, Ranga Reddy District. He also points out that when there is a determination by the District Registrar under sub-section (2) of Section 47-A of the Stamp Act, the aggrieved person has a right to appeal before the appellate authority as prescribed under sub-section (5) of Section 47-A of the Stamp Act.

There is a serious dispute as to whether certificate of sale issued by the Chief Manager, State Bank of India under Securitisation Act is a certificate of sale or a sale under Section
47-A of the Stamp Act (as defined in Section 54 of the Transfer of Property Act, 1882). This requires adjudication. When the Stamp Act provides for comprehensive procedure to determine correct stamp duty on the under-valued documents and also provides proper forum to hear appeals, it is not proper for this Court to adjudicate this

issue at the initial stage. The petitioner is provided an effective alternative remedy of filing an appeal before competent Judge of the City Civil Court as per Section 47-A(5)(i) of the Stamp Act. Therefore, this Court is not inclined to go into the controversy at this stage.

The writ petitions are, therefore, disposed of giving liberty to the petitioner to file appeal against the impugned order before the City Civil Court competent within a period of ten days from the date of receipt of copy of this order. As and when such appeals are filed, City Civil Court shall entertain the same and pass appropriate orders in accordance with law within a period of four weeks thereafter excluding the Court vacation period. No costs.

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(V.V.S.RAO,J)

05.04.2006

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